

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

JUDY ANGELA HARRIS
28015 Ebson
Mission Viejo, CA 92692

Case No. 2011-766

Registered Nurse License No. **324922**
Public Health Nurse Certificate No. **41510**

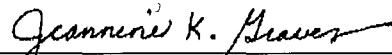
Respondent

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on **September 9, 2011.**

IT IS SO ORDERED **August 11, 2011.**



President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 KAMALA D. HARRIS
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 ERIN M. SUNSERI
Deputy Attorney General
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Attorneys for Complainant

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9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 2011-766

12 **JUDY ANGELA HARRIS**
13 **28015 Ebson**
Mission Viejo, CA 92692
14 **Registered Nurse License No. 324922**
Public Health Nurse Certification No. 41510

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15
16 Respondent.

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18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN (Complainant) is the Executive Officer of the Board of
22 Registered Nursing. She brought this action solely in her official capacity and is represented in
23 this matter by Kamala D. Harris, Attorney General of the State of California, by Erin M. Sunseri,
24 Deputy Attorney General.

25 2. Respondent Judy Angela Harris (Respondent) is represented in this proceeding by
26 attorney Jehan N. Jayakumar, whose address is: 2424 S.E. Bristol, Suite 300, Newport Beach,
27 CA 92660.

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3. On or about January 31, 1981, the Board of Registered Nursing issued Registered Nurse License No. 324922 to Respondent. The Registered Nurse License was in full force and effect at all times relevant to the charges brought in Accusation No. 2011-766 and will expire on August 31, 2012, unless renewed.

4. On or about March 13, 1987, the Board of Registered Nursing issued Public Health Nurse Certification No. 41510 to Respondent. The Public Health Nurse Certification was in full force and effect at all times relevant to the charges brought in Accusation No. 2011-766 and will expire on August 31, 2012, unless renewed.

JURISDICTION

5. Accusation No. 2011-766 was filed before the Board of Registered Nursing (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on March 14, 2011. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 2011-766 is attached as Exhibit "A" and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 2011-766. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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1 CULPABILITY

2 9. Respondent admits the truth of each and every charge and allegation in Accusation
3 No. 2011-766.

4 10. Respondent agrees that her Registered Nurse License is subject to discipline and she
5 agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order
6 below.

7 CONTINGENCY

8 11. This stipulation shall be subject to approval by the Board of Registered Nursing.
9 Respondent understands and agrees that counsel for Complainant and the staff of the Board of
10 Registered Nursing may communicate directly with the Board regarding this stipulation and
11 settlement, without notice to or participation by Respondent or her counsel. By signing the
12 stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek
13 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
14 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
15 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
16 action between the parties, and the Board shall not be disqualified from further action by having
17 considered this matter.

18 12. The parties understand and agree that facsimile copies of this Stipulated Settlement
19 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
20 effect as the originals.

21 13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
22 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
23 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
24 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
25 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
26 writing executed by an authorized representative of each of the parties.

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14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that both the Registered Nurse License No. 324922 and Public Health Nurse Certification No. 41510 issued to Respondent Judy Angela Harris are revoked. However, the revocation is stayed and Respondent is placed on probation for four (4) years on the following terms and conditions.

Severability Clause. Each condition of probation contained herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

1. **Obey All Laws.** Respondent shall obey all federal, state and local laws. A full and detailed account of any and all violations of law shall be reported by Respondent to the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this condition, Respondent shall submit completed fingerprint forms and fingerprint fees within 45 days of the effective date of the decision, unless previously submitted as part of the licensure application process.

Criminal Court Orders: If Respondent is under criminal court orders, including probation or parole, and the order is violated, this shall be deemed a violation of these probation conditions, and may result in the filing of an accusation and/or petition to revoke probation.

2. **Comply with the Board's Probation Program.** Respondent shall fully comply with the conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the Respondent's compliance with the Board's Probation Program. Respondent shall inform the Board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license status with the Board, including during any period of suspension.

1 Upon successful completion of probation, Respondent's license shall be fully restored.

2 3. **Report in Person.** Respondent, during the period of probation, shall
3 appear in person at interviews/meetings as directed by the Board or its designated representatives.

4 4. **Residency, Practice, or Licensure Outside of State.** Periods of residency
5 or practice as a registered nurse outside of California shall not apply toward a reduction of this
6 probation time period. Respondent's probation is tolled, if and when she resides outside of
7 California. Respondent must provide written notice to the Board within 15 days of any change of
8 residency or practice outside the state, and within 30 days prior to re-establishing residency or
9 returning to practice in this state.

10 Respondent shall provide a list of all states and territories where she has ever been licensed
11 as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide
12 information regarding the status of each license and any changes in such license status during the
13 term of probation. Respondent shall inform the Board if she applies for or obtains a new nursing
14 license during the term of probation.

15 5. **Submit Written Reports.** Respondent, during the period of probation,
16 shall submit or cause to be submitted such written reports/declarations and verification of actions
17 under penalty of perjury, as required by the Board. These reports/declarations shall contain
18 statements relative to Respondent's compliance with all the conditions of the Board's Probation
19 Program. Respondent shall immediately execute all release of information forms as may be
20 required by the Board or its representatives.

21 Respondent shall provide a copy of this Decision to the nursing regulatory agency in every
22 state and territory in which she has a registered nurse license.

23 6. **Function as a Registered Nurse.** Respondent, during the period of
24 probation, shall engage in the practice of registered nursing in California for a minimum of 24
25 hours per week for 6 consecutive months or as determined by the Board.

26 For purposes of compliance with the section, "engage in the practice of registered nursing"
27 may include, when approved by the Board, volunteer work as a registered nurse, or work in any
28 non-direct patient care position that requires licensure as a registered nurse.

1 The Board may require that advanced practice nurses engage in advanced practice nursing
2 for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

3 If Respondent has not complied with this condition during the probationary term, and
4 Respondent has presented sufficient documentation of her good faith efforts to comply with this
5 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
6 extension of Respondent's probation period up to one year without further hearing in order to
7 comply with this condition. During the one year extension, all original conditions of probation
8 shall apply.

9 **7. Employment Approval and Reporting Requirements.** Respondent shall
10 obtain prior approval from the Board before commencing or continuing any employment, paid or
11 voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
12 performance evaluations and other employment related reports as a registered nurse upon request
13 of the Board.

14 Respondent shall provide a copy of this Decision to her employer and immediate
15 supervisors prior to commencement of any nursing or other health care related employment.

16 In addition to the above, Respondent shall notify the Board in writing within seventy-two
17 (72) hours after she obtains any nursing or other health care related employment. Respondent
18 shall notify the Board in writing within seventy-two (72) hours after she is terminated or
19 separated, regardless of cause, from any nursing, or other health care related employment with a
20 full explanation of the circumstances surrounding the termination or separation.

21 **8. Supervision.** Respondent shall obtain prior approval from the Board
22 regarding Respondent's level of supervision and/or collaboration before commencing or
23 continuing any employment as a registered nurse, or education and training that includes patient
24 care.

25 Respondent shall practice only under the direct supervision of a registered nurse in good
26 standing (no current discipline) with the Board of Registered Nursing, unless alternative methods
27 of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are
28 approved.

1 Respondent's level of supervision and/or collaboration may include, but is not limited to the
2 following:

3 (a) Maximum - The individual providing supervision and/or collaboration is present in
4 the patient care area or in any other work setting at all times.

5 (b) Moderate - The individual providing supervision and/or collaboration is in the patient
6 care unit or in any other work setting at least half the hours Respondent works.

7 (c) Minimum - The individual providing supervision and/or collaboration has person-to-
8 person communication with Respondent at least twice during each shift worked.

9 (d) Home Health Care - If Respondent is approved to work in the home health care
10 setting, the individual providing supervision and/or collaboration shall have person-to-person
11 communication with Respondent as required by the Board each work day. Respondent shall
12 maintain telephone or other telecommunication contact with the individual providing supervision
13 and/or collaboration as required by the Board during each work day. The individual providing
14 supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to
15 patients' homes visited by Respondent with or without Respondent present.

16 9. **Employment Limitations.** Respondent shall not work for a nurse's
17 registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a
18 traveling nurse, or for an in-house nursing pool.

19 Respondent shall not work for a licensed home health agency as a visiting nurse unless the
20 registered nursing supervision and other protections for home visits have been approved by the
21 Board. Respondent shall not work in any other registered nursing occupation where home visits
22 are required.

23 Respondent shall not work in any health care setting as a supervisor of registered nurses.
24 The Board may additionally restrict Respondent from supervising licensed vocational nurses
25 and/or unlicensed assistive personnel on a case-by-case basis.

26 Respondent shall not work as a faculty member in an approved school of nursing or as an
27 instructor in a Board approved continuing education program.

28 Respondent shall work only on a regularly assigned, identified and predetermined

1 worksite(s) and shall not work in a float capacity.

2 If Respondent is working or intends to work in excess of 40 hours per week, the Board may
3 request documentation to determine whether there should be restrictions on the hours of work.

4 10. **Complete a Nursing Course(s).** Respondent, at her own expense, shall
5 enroll and successfully complete a course(s) relevant to the practice of registered nursing no later
6 than six months prior to the end of her probationary term.

7 Respondent shall obtain prior approval from the Board before enrolling in the course(s).
8 Respondent shall submit to the Board the original transcripts or certificates of completion for the
9 above required course(s). The Board shall return the original documents to Respondent after
10 photocopying them for its records.

11 11. **Cost Recovery.** Respondent shall pay to the Board costs associated with
12 its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the
13 amount of \$2,310.00. Respondent shall be permitted to pay these costs in a payment plan
14 approved by the Board, with payments to be completed no later than three months prior to the end
15 of the probation term.

16 If Respondent has not complied with this condition during the probationary term, and
17 Respondent has presented sufficient documentation of her good faith efforts to comply with this
18 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
19 extension of Respondent's probation period up to one year without further hearing in order to
20 comply with this condition. During the one year extension, all original conditions of probation
21 will apply.

22 12. **Violation of Probation.** If Respondent violates the conditions of her
23 probation, the Board after giving Respondent notice and an opportunity to be heard, may set aside
24 the stay order and impose the stayed discipline (revocation/suspension) of Respondent's license.

25 If during the period of probation, an accusation or petition to revoke probation has been
26 filed against Respondent's license or the Attorney General's Office has been requested to prepare
27 an accusation or petition to revoke probation against Respondent's license, the probationary
28 period shall automatically be extended and shall not expire until the accusation or petition has

1 been acted upon by the Board.

2 13. **License Surrender.** During Respondent's term of probation, if she ceases
3 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of
4 probation, Respondent may surrender her license to the Board. The Board reserves the right to
5 evaluate Respondent's request and to exercise its discretion whether to grant the request, or to
6 take any other action deemed appropriate and reasonable under the circumstances, without further
7 hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent will no
8 longer be subject to the conditions of probation.

9 Surrender of Respondent's license shall be considered a disciplinary action and shall
10 become a part of Respondent's license history with the Board. A registered nurse whose license
11 has been surrendered may petition the Board for reinstatement no sooner than the following
12 minimum periods from the effective date of the disciplinary decision:

- 13 (1) Two years for reinstatement of a license that was surrendered for any reason other
14 than a mental or physical illness; or
15 (2) One year for a license surrendered for a mental or physical illness.

16 14. **Physical Examination.** Within 45 days of the effective date of this
17 Decision, Respondent, at her expense, shall have a licensed physician, nurse practitioner, or
18 physician assistant, who is approved by the Board before the assessment is performed, submit an
19 assessment of the Respondent's physical condition and capability to perform the duties of a
20 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If
21 medically determined, a recommended treatment program will be instituted and followed by the
22 Respondent with the physician, nurse practitioner, or physician assistant providing written reports
23 to the Board on forms provided by the Board.

24 If Respondent is determined to be unable to practice safely as a registered nurse, the
25 licensed physician, nurse practitioner, or physician assistant making this determination shall
26 immediately notify the Board and Respondent by telephone, and the Board shall request that the
27 Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall
28 immediately cease practice and shall not resume practice until notified by the Board. During this

1 period of suspension, Respondent shall not engage in any practice for which a license issued by
2 the Board is required until the Board has notified Respondent that a medical determination
3 permits Respondent to resume practice. This period of suspension will not apply to the reduction
4 of this probationary time period.

5 If Respondent fails to have the above assessment submitted to the Board within the 45-day
6 requirement, Respondent shall immediately cease practice and shall not resume practice until
7 notified by the Board. This period of suspension will not apply to the reduction of this
8 probationary time period. The Board may waive or postpone this suspension only if significant,
9 documented evidence of mitigation is provided. Such evidence must establish good faith efforts
10 by Respondent to obtain the assessment, and a specific date for compliance must be provided.
11 Only one such waiver or extension may be permitted.

12 **15. Participate in Treatment/Rehabilitation Program for Chemical**

13 **Dependence.** Respondent, at her expense, shall successfully complete during the probationary
14 period or shall have successfully completed prior to commencement of probation a Board-
15 approved treatment/rehabilitation program of at least six months duration. As required, reports
16 shall be submitted by the program on forms provided by the Board. If Respondent has not
17 completed a Board-approved treatment/rehabilitation program prior to commencement of
18 probation, Respondent, within 45 days from the effective date of the decision, shall be enrolled in
19 a program. If a program is not successfully completed within the first nine months of probation,
20 the Board shall consider Respondent in violation of probation.

21 Based on Board recommendation, each week Respondent shall be required to attend at least
22 one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics Anonymous,
23 Alcoholics Anonymous, etc.) and a nurse support group as approved and directed by the Board.
24 If a nurse support group is not available, an additional 12-step meeting or equivalent shall be
25 added. Respondent shall submit dated and signed documentation confirming such attendance to
26 the Board during the entire period of probation. Respondent shall continue with the recovery plan
27 recommended by the treatment/rehabilitation program or a licensed mental health examiner
28 and/or other ongoing recovery groups.

1 16. **Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent
2 shall completely abstain from the possession, injection or consumption by any route of all
3 controlled substances and all psychotropic (mood altering) drugs, including alcohol, except when
4 the same are ordered by a health care professional legally authorized to do so as part of
5 documented medical treatment. Respondent shall have sent to the Board, in writing and within
6 fourteen (14) days, by the prescribing health professional, a report identifying the medication,
7 dosage, the date the medication was prescribed, the Respondent's prognosis, the date the
8 medication will no longer be required, and the effect on the recovery plan, if appropriate.

9 Respondent shall identify for the Board a single physician, nurse practitioner or physician
10 assistant who shall be aware of Respondent's history of substance abuse and will coordinate and
11 monitor any prescriptions for Respondent for dangerous drugs, controlled substances or mood-
12 altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report
13 to the Board on a quarterly basis Respondent's compliance with this condition. If any substances
14 considered addictive have been prescribed, the report shall identify a program for the time limited
15 use of any such substances.

16 The Board may require the single coordinating physician, nurse practitioner, or physician
17 assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive
18 medicine.

19 17. **Submit to Tests and Samples.** Respondent, at her expense, shall
20 participate in a random, biological fluid testing or a drug screening program which the Board
21 approves. The length of time and frequency will be subject to approval by the Board.
22 Respondent is responsible for keeping the Board informed of Respondent's current telephone
23 number at all times. Respondent shall also ensure that messages may be left at the telephone
24 number when she is not available and ensure that reports are submitted directly by the testing
25 agency to the Board, as directed. Any confirmed positive finding shall be reported immediately
26 to the Board by the program and Respondent shall be considered in violation of probation.

27 In addition, Respondent, at any time during the period of probation, shall fully cooperate
28 with the Board or any of its representatives, and shall, when requested, submit to such tests and

1 samples as the Board or its representatives may require for the detection of alcohol, narcotics,
2 hypnotics, dangerous drugs, or other controlled substances.

3 If Respondent has a positive drug screen for any substance not legally authorized and not
4 reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board
5 files a petition to revoke probation or an accusation, the Board may suspend Respondent from
6 practice pending the final decision on the petition to revoke probation or the accusation. This
7 period of suspension will not apply to the reduction of this probationary time period.

8 If Respondent fails to participate in a random, biological fluid testing or drug screening
9 program within the specified time frame, Respondent shall immediately cease practice and shall
10 not resume practice until notified by the Board. After taking into account documented evidence
11 of mitigation, if the Board files a petition to revoke probation or an accusation, the Board may
12 suspend Respondent from practice pending the final decision on the petition to revoke probation
13 or the accusation. This period of suspension will not apply to the reduction of this probationary
14 time period.

15 18. **Mental Health Examination.** Respondent shall, within 45 days of the
16 effective date of this Decision, have a mental health examination including psychological testing
17 as appropriate to determine her capability to perform the duties of a registered nurse. The
18 examination will be performed by a psychiatrist, psychologist or other licensed mental health
19 practitioner approved by the Board. The examining mental health practitioner will submit a
20 written report of that assessment and recommendations to the Board. All costs are the
21 responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a
22 result of the mental health examination will be instituted and followed by Respondent.

23 If Respondent is determined to be unable to practice safely as a registered nurse, the
24 licensed mental health care practitioner making this determination shall immediately notify the
25 Board and Respondent by telephone, and the Board shall request that the Attorney General's
26 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease
27 practice and may not resume practice until notified by the Board. During this period of
28 suspension, Respondent shall not engage in any practice for which a license issued by the Board

1 is required, until the Board has notified Respondent that a mental health determination permits
2 Respondent to resume practice. This period of suspension will not apply to the reduction of this
3 probationary time period.

4 If Respondent fails to have the above assessment submitted to the Board within the 45-day
5 requirement, Respondent shall immediately cease practice and shall not resume practice until
6 notified by the Board. This period of suspension will not apply to the reduction of this
7 probationary time period. The Board may waive or postpone this suspension only if significant,
8 documented evidence of mitigation is provided. Such evidence must establish good faith efforts
9 by Respondent to obtain the assessment, and a specific date for compliance must be provided.
10 Only one such waiver or extension may be permitted.

11 19. **Therapy or Counseling Program.** Respondent, at her expense, shall
12 participate in an on-going counseling program until such time as the Board releases her from this
13 requirement and only upon the recommendation of the counselor. Written progress reports from
14 the counselor will be required at various intervals.

15 ACCEPTANCE

16 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
17 discussed it with my attorney, Jehan N. Jayakumar. I understand the stipulation and the effect it
18 will have on my Registered Nurse License, and Public Health Nurse Certification. I enter into
19 this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and
20 agree to be bound by the Decision and Order of the Board of Registered Nursing.

21
22 DATED: June 15, 2011

Judy A. Harris
JUDY ANGELA HARRIS
Respondent

24 I have read and fully discussed with Respondent Judy Angela Harris the terms and
25 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
26 I approve its form and content.

27 DATED: June 15, 2011

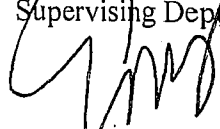
Jehan N. Jayakumar
JEHAN N. JAYAKUMAR
Attorney for Respondent

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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

Dated: 6/27/11

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
JAMES M. LEDAKIS
Supervising Deputy Attorney General

ERIN M. SUNSERI
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 2011-766

1 KAMALA D. HARRIS
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2 LINDA K. SCHNEIDER
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3 State Bar No. 101336
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Attorneys for Complainant

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9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 2011-7666

12 **JUDY ANGELA HARRIS**
13 **28015 Ebson**
14 **Mission Viejo, CA 92692**

A C C U S A T I O N

15 **Registered Nurse License No. 324922**
Public Health Nurse Certification No. 41510

16
17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
22 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
23 Consumer Affairs.

24 2. On or about January 31, 1981, the Board of Registered Nursing issued Registered
25 Nurse License Number 324922 to Judy Angela Harris (Respondent). The Registered Nurse
26 License was in full force and effect at all times relevant to the charges brought herein and will
27 expire on August 31, 2012, unless renewed.

28 ///

3. On or about March 13, 1987, the Board of Registered Nursing issued Public Health Nurse Certification Number 41510 to Respondent. The Public Health Nurse Certification was in full force and effect at all times relevant to the charges brought herein and will expire on August 31, 2012, unless renewed.

JURISDICTION

4. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

5. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

6. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY PROVISIONS

7. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

- (a) Considering the denial of a license by the board under Section 480; or
- (b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

8. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

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REGULATORY PROVISIONS

12. California Code of Regulations, title 16, section 1444, states:

A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:

(a) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160.

(b) Failure to comply with any mandatory reporting requirements.

(c) Theft, dishonesty, fraud, or deceit.

(d) Any conviction or act subject to an order of registration pursuant to Section 290 of the Penal Code.

13. California Code of Regulations, title 16, section 1445 states:

(b) When considering the suspension or revocation of a license on the grounds that a registered nurse has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his/her eligibility for a license will consider the following criteria:

(1) Nature and severity of the act(s) or offense(s).

(2) Total criminal record.

(3) The time that has elapsed since commission of the act(s) or offense(s).

(4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.

(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

(6) Evidence, if any, of rehabilitation submitted by the licensee.

COSTS

14. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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FIRST CAUSE FOR DISCIPLINE

(May 11, 2005 Criminal Conviction for DUI on July 31, 2004)

15. Respondent has subjected her license to disciplinary action under sections 490 and 2761, subdivision (f), of the Code in that Respondent was convicted of a crime that is substantially related to the qualifications, functions, and duties of a registered nurse. The circumstances are as follows:

a. On or about May 11, 2005, in a criminal proceeding entitled *People of the State of California v. Judith Angela Harris, aka Judy Harris*, in Orange County Superior Court, case number 05SM00186, Respondent was convicted on her plea of guilty of violating Vehicle Code section 23152, subdivision (b), driving with a blood alcohol concentration (BAC) of 0.08% or more, a misdemeanor. The court found true the special allegation that Respondent had a blood alcohol concentration (BAC) of .20 percent or more. An additional count of violating Vehicle Code section 23152, subdivision (a), driving under the influence of alcohol, was dismissed pursuant to a plea agreement.

b. As a result of the conviction, on or about May 11, 2005, Respondent was sentenced to three years informal probation and ordered to complete a nine-month Level II First Offender Alcohol Program, and pay \$1,597 in fees, fines, and restitution. Respondent was further ordered to enroll in an alcohol treatment program, complete a MADD victim impact panel, and comply with the terms of DUI probation.

c. The facts that led to the conviction are that on or about the early evening of July 31, 2004, a deputy from the Orange County Sheriff's Department responded to a report of an intoxicated female (Respondent) who was observed leaving a grocery store and driving away. Based on the reported license place, the deputy went to the address of record and waited for Respondent. When Respondent arrived, she drove past the deputy and stopped in the oncoming lane of travel in front of her residence. The deputy walked up to Respondent's vehicle. He noted a 12-pack of beer on the passenger seat next to Respondent, and a strong odor of an alcoholic beverage on her breath. Respondent told the deputy she had consumed about 10 beers that day. The deputy directed Respondent to move her vehicle out of the middle of the roadway. She

1 opened her garage door with a remote control and drove into her garage, colliding with objects
2 stored against the wall. Respondent's speech was slurred and her eyes were bloodshot and
3 watery. Respondent was told she was being investigated for driving under the influence of
4 alcohol. Respondent denied she had been driving and refused to submit to field sobriety tests.
5 After her arrest, she provided a blood sample which was analyzed with a BAC of .33 percent.

6 SECOND CAUSE FOR DISCIPLINE

7 (September 1, 2009 Criminal Convictions for DUI on August 6, 2008)

8 16. Respondent has subjected her license to disciplinary action under sections 490 and
9 2761, subdivision (f) of the Code in that Respondent was convicted of crimes that are
10 substantially related to the qualifications, functions, and duties of a registered nurse. The
11 circumstances are as follows:

12 a. On or about September 1, 2009, in a criminal proceeding entitled *People of the*
13 *State of California v. Judith Angela Harris, aka Judy Harris*, in Orange County Superior Court,
14 case number 08SM03337, Respondent was convicted on her plea of guilty of violating Vehicle
15 Code section 23152, subdivision (a), driving under the influence of alcohol, and Vehicle Code
16 section 23152, subdivision (b), driving with a BAC of 0.08% or more, misdemeanors. As to both
17 counts, the court found true the allegations that Respondent's BAC was .20 percent or more
18 pursuant to Vehicle Code section 23538, subdivision (b)(2), and that she previously suffered a
19 conviction for driving under the influence within the previous 10 years.

20 b. As a result of the convictions, on or about September 1, 2009, Respondent was
21 sentenced to five years formal probation and ordered to serve 240 days in jail, with the jail term
22 stayed, and Respondent was granted entry into the DUI Court Program. The program required
23 Respondent to abstain from alcohol, not to own, use, or possess alcohol or have it in her
24 residence, to submit to a Fourth Amendment waiver, and to cooperate with the probation officer
25 as to any required treatment or counseling. Respondent was further required to attend and
26 complete a MADD victim impact panel, and a Multiple Offender Program, to run concurrent to
27 the sentence imposed in paragraph 17, below, and pay fees, fines and restitution in the amount of
28 approximately \$1,600.

1 c. The facts that led to the convictions are that on or about the evening of August
2 6, 2008, the Orange County Sheriff's Department received numerous calls from citizens
3 regarding a possible drunk driver. At the same time, a call was received about a traffic collision
4 at an intersection in Mission Viejo. When deputies arrived at the scene, they found Respondent
5 sitting on a curb next to her vehicle. A witness/victim stated that he was waiting at a red light
6 when he was rear-ended by Respondent. Another witness stated she had been following
7 Respondent from a nearby store. When questioned, the deputies noted a strong odor of an
8 alcoholic beverage on Respondent's breath, her eyes were bloodshot and watery, her speech was
9 slurred, and she had difficulty standing without assistance. Respondent agreed to submit to field
10 sobriety tests, which she failed to perform as explained and demonstrated. Respondent was
11 unable to provide a viable breath sample for the preliminary alcohol screening test. At booking,
12 Respondent provided a blood sample which was analyzed with a BAC of .26 percent.

13 **THIRD CAUSE FOR DISCIPLINE**

14 **(September 1, 2009 Criminal Convictions for DUI on January 16, 2009)**

15 17. Respondent has subjected her license to disciplinary action under sections 490 and
16 2761, subdivision (f) of the Code in that Respondent was convicted of crimes that are
17 substantially related to the qualifications, functions, and duties of a registered nurse. The
18 circumstances are as follows:

19 a. On or about September 1, 2009, in a criminal proceeding entitled *People of the*
20 *State of California v. Judith Angela Harris, aka Judy Harris*, in Orange County Superior Court,
21 case number 09SM00581, Respondent was convicted on her plea of guilty of violating Vehicle
22 Code section 23152, subdivision (a), driving under the influence of alcohol, Vehicle Code section
23 23152, subdivision (b), driving with a BAC of 0.08% or more, and Vehicle Code section 14601.5,
24 subdivision (a), driving on a suspended driver's license, misdemeanors. The court also found true
25 the special allegation that Respondent had a blood alcohol concentration (BAC) of .15 percent or
26 more pursuant to Vehicle Code section 23578.

27 b. As a result of the convictions, on or about September 1, 2009, Respondent was
28 sentenced to five years formal probation and ordered to serve 240 days in jail, with the jail term

1 stayed, and Respondent was granted entry into the DUI Court Program. The court also ordered
2 Respondent committed for 120 days under supervised electronic confinement, with credit for four
3 days. The DUI Court Program required Respondent to abstain from alcohol, not to own, use, or
4 possess alcohol or have it in her residence, to submit to a Fourth Amendment waiver, and to
5 cooperate with the probation officer as to any required treatment or counseling. Respondent was
6 further required to attend and complete a MADD victim impact panel, and an 18-month Multiple
7 Offender Program, to run concurrent to the sentence imposed in paragraph 16, above, and pay
8 fees, fines and restitution in the amount of approximately \$1,600.

9 c. The facts that led to the convictions are that on or about the evening of January
10 16, 2009, an off-duty Orange County Sheriff's Deputy was driving with his family when his
11 vehicle was rear-ended by Respondent at a stoplight. The deputy requested Respondent pull over
12 to a safe area to exchange information. Respondent almost caused another collision when she
13 entered the intersection on a red light. Respondent parked her vehicle, gave her insurance
14 information to the deputy, and stated she was going home. The deputy called for Respondent to
15 stop several times. He followed Respondent as she walked down the street. Respondent went
16 inside her residence and locked the door. On-duty deputies arrived and identified themselves;
17 they knocked on Respondent's door loudly, and called to her multiple times to come to the door.
18 They observed Respondent through the front window walking upstairs carrying a glass of wine.
19 The deputies kicked in the front door and found Respondent in a loft area. Respondent admitted
20 she heard the deputies outside her residence, but thought it was not that serious and that they
21 would eventually go away. Respondent had a strong odor of an alcoholic beverage on her breath,
22 her eyes were bloodshot and watery, her speech was slurred, and she staggered as she walked.
23 Respondent agreed to submit to sobriety tests, which she failed to perform as explained and
24 demonstrated. Two breath samples provided for the preliminary alcohol screening test were
25 analyzed with a BAC of .198 and .194 percent.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct - Use of Alcohol in a Dangerous Manner)**

3 18. Respondent has subjected her license to disciplinary action under section 2762,
4 subdivision (b) of the Code in that on or about July 31, 2004, August 6, 2008, and January 16,
5 2009, as described in paragraphs 15-17, above, Respondent used alcoholic beverages to an extent
6 or in a manner that was dangerous and injurious to herself, and potentially dangerous to others in
7 that she operated a motor vehicle with significantly high BAC readings (.33, .26, and .19 percent),
8 and caused two collisions.

9 **FIFTH CAUSE FOR DISCIPLINE**

10 **(Unprofessional Conduct - Conviction of Alcohol-Related Criminal Offenses)**

11 19. Respondent has subjected her license to disciplinary action under section 2762,
12 subdivision (c) of the Code in that on or about May 11, 2005, and September 1, 2009, as
13 described in paragraphs 15-17, above, Respondent was convicted of multiple criminal offenses
14 involving the consumption and/or self-administration of alcohol.

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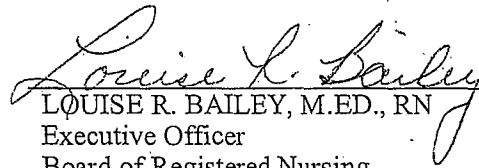
PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 324922, issued to Judy Angela Harris;
2. Revoking or suspending Public Health Nurse Certification Number 41510, issued to Judy Angela Harris;
3. Ordering Judy Angela Harris to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
4. Taking such other and further action as deemed necessary and proper.

DATED: _____

3/14/11


LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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